

# Exhibit

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## CASE INFORMATION

### CV-13-798996 JESSICA ESPARZA - ET AL. vs. THOMAS GERALD KLOCKER - ET AL.

#### Summary

**Case Number:** CV-13-798996  
**Case Title:** JESSICA ESPARZA - ET AL. vs. THOMAS GERALD KLOCKER - ET AL.  
**Case Designation:** TORT-MISCELLANEOUS  
**Filing Date:** 01/07/2013  
**Judge:** KATHLEEN ANN SUTULA  
**Magistrate** N/A  
**Mediator:** N/A  
**Room:** N/A  
**Next Action:** N/A  
**File Location:** C/A PENDING  
**Last Status:** INACTIVE  
**Last Status Date:** 06/02/2014  
**Last Disposition:** DIS. W/ PREJ  
**Last Disposition Date:** 06/02/2014  
**Prayer Amount:** \$0.00  
**Court of Appeals Case:** [CA-14-101604](#)

#### Service

Party Role	Name	Service	Date	Response	Date
P(1)	JESSICA ESPARZA	N/A			
P(2)	A METAL SOURCE, LLC FKA ALL METAL SOURCE, LLC	N/A			
P(3)	NATIONWIDE MUTUAL INSURANCE COMPANY	N/A			
D(1)	THOMAS GERALD KLOCKER	SUMS COMPLAINT CERTIFIED MAIL	01/23/2013	COMP ON OTHER	01/25/2013
D(2)	ALL METAL SALES, INC.	SUMS COMPLAINT CERTIFIED MAIL	01/23/2013	COMP ON OTHER	01/25/2013

#### Case Parties

**PLAINTIFF (1)** JESSICA ESPARZA  
25935 DETROIT ROAD #321  
WESTLAKE, OH 44145-0000

**ATTORNEY** LEI JIANG (0084847)  
26943 WESTWOOD RD  
WESTLAKE, OH 44145-4656  
Ph: 440-835-2271  
Answer Filed: N/A

**PLAINTIFF (2)** A METAL SOURCE, LLC FKA ALL METAL SOURCE, LLC  
C/O JESSICA ESPARZA  
25935 DETROIT ROAD #321  
WESTLAKE, OH 44145-0000

**ATTORNEY** GREGORY E O'BRIEN (0037073)  
1300 EAST NINTH ST., 20TH FL  
CLEVELAND, OH 44114-0000  
Ph: 216-621-7860  
Answer Filed: N/A

**ATTORNEY** LEI JIANG (0084847)  
26943 WESTWOOD RD  
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Ph: 440-835-2271  
Answer Filed: N/A

**PLAINTIFF (3)** NATIONWIDE MUTUAL INSURANCE COMPANY  
1000 MARKET ST. N.E.  
CANTON, OH 44720-0000

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Answer Filed: N/A

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Ph: 216-621-7860  
Answer Filed: N/A

**DEFENDANT(1)** THOMAS GERALD KLOCKER  
908 BEACH ROAD  
LAKEWOOD, OH 44107-0000

**ATTORNEY** JOSEPH A FERRANTE (0040128)  
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SUITE 540  
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Answer Filed: N/A

**ATTORNEY** ADAM C SMITH (0087720)  
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Ph: 216-348-5400  
Answer Filed: N/A

**ATTORNEY** MATTHEW JOHN CAVANAGH (0079522)  
600 SUPERIOR AVENUE, EAST  
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Ph: 216-348-5400  
Answer Filed: N/A

**DEFENDANT(2)** ALL METAL SALES, INC.  
C/O THOMAS GERALD KLOCKER  
29260 CLEMENS ROAD SUITE #3  
WESTLAKE, OH 44145-0000

**ATTORNEY** JOSEPH A FERRANTE (0040128)  
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Answer Filed: N/A

**ATTORNEY** ADAM C SMITH (0087720)  
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Ph: 216-348-5400

Answer Filed: N/A

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CLEVELAND, OH 44114-0000  
Ph: 216-348-5400  
Answer Filed: N/A

## Docket Information

Filing Date	Side	Type	Description	Image
07/08/2014	P1	CA	APPELLANT'S 9A RECORD TRANSMITTED TO THE COURT OF APPEALS CONSISTING OF THE TRANSCRIPT OF THE DOCKET, JOURNAL ENTRIES AND THE ORIGINAL PAPERS ON CA NO. 101604.	
06/28/2014	P1	CA	----- NOTICE OF APPEAL ----- CA NO. 101604 NOTICE OF APPEAL FILED BY THE PLTF. APPELLANT W/A 9A PRAECIPE AND DOCKETING STATEMENT ON THE REGULAR CALENDAR. COPIES MAILED.	
06/20/2014	N/A	CS	COURT COST ASSESSED JESSICA ESPARZA BILL AMOUNT 146.62 PAID AMOUNT 141.67 AMOUNT DUE 4.95 A METAL SOURCE, LLC BILL AMOUNT 146.62 PAID AMOUNT 141.67 AMOUNT DUE 4.95 NATIONWIDE MUTUAL INSURANCE COMPANY BILL AMOUNT 146.76 PAID AMOUNT 141.66 AMOUNT DUE 5.1	
06/10/2014	N/A	JE	PLAINTIFFS' MOTION FOR JUDGMENT ENTRY, FILED 6/4/2014, IS MOOT. JUDGMENT WAS ENTERED ON 6/2/2014. NOTICE ISSUED	
06/04/2014	P	MO	MOTION FILED FOR PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) LEI JIANG 0084847 PLAINTIFFS' MOTION FOR JUDGMENT ENTRY 06/10/2014 - MOOT	
06/03/2014	N/A	JE	PLAINTIFFS' MOTION FOR PARTIAL DISMISSAL WITHOUT PREJUDICE OF THE FOLLOWING CAUSES OF ACTION: MALICIOUS PROSECUTION, VEXATIOUS LITIGATOR, UNJUST ENRICHMENT, AND DEFAMATION, FILED 5/30/2014, IS MOOT. NOTICE ISSUED	
06/03/2014	N/A	JE	PLAINTIFFS' MOTION TO WITHDRAW REPRESENTATION AS PLAINTIFFS' COUNSEL, FILED 4/30/2014, IS MOOT. NOTICE ISSUED	
06/03/2014	N/A	JE	PLAINTIFFS' MOTION FOR A SPANISH-LANGUAGE INTERPRETER FOR THE TRIAL TESTIMONY OF PLAINTIFFS' WITNESS, FILED 5/20/2014, IS MOOT. NOTICE ISSUED	
06/03/2014	N/A	JE	PLAINTIFFS' MOTION FOR IN-CAMERA REVIEW OF AT&T RECORDS AND CLARIFICATION AND MODIFICATION OF THE PROTECTIVE ORDER, FILED 5/7/2014, IS MOOT. NOTICE ISSUED	
06/02/2014	N/A	JE	THIRD PARTY-PLAINTIFF NATIONWIDE MUTUAL INSURANCE COMPANY'S MOTION FOR SUMMARY JUDGMENT, FILED 3/3/2014, IS DENIED IN PART. AN INSURER'S DUTY TO DEFEND IS BROADER THAN AND DISTINCT FROM ITS DUTY TO INDEMNIFY. CITY OF SHARONVILLE V. AM.EMPLRS. INS. CO., 109 OHIO ST. 3D 186, 2006-OHIO-2180, 846 N.E.2D 833, 2006, CITING SOCONY-VACUUM OIL CO. V. CONTINENTAL CAS. CO. (1945), 144 OHIO ST. 382, 29 O.O. 563, 59 N.E.2D 199, PARAGRAPH ONE OF THE SYLLABUS; W. LYMAN CASE & CO. V. NATL. CITY CORP. (1996), 76 OHIO ST.3D 345, 347, 1996 OHIO 392, 667 N.E.2D 978. AN INSURER HAS AN ABSOLUTE DUTY TO DEFEND AN ACTION WHEN THE COMPLAINT CONTAINS AN ALLEGATION IN ANY ONE OF ITS CLAIMS THAT COULD ARGUABLY BE COVERED BY THE INSURANCE	

POLICY, EVEN IN PART AND EVEN IF THE ALLEGATIONS ARE GROUNLESS, FALSE, OR FRAUDULENT. ID., CITING SANDERSON V. OHIO EDISON CO. (1994), 69 OHIO ST.3D 582, 1994 OHIO 379, 635 N.E.2D 19, AT PARAGRAPH ONE OF THE SYLLABUS. ONCE AN INSURER MUST DEFEND ONE CLAIM WITHIN A COMPLAINT, IT MUST DEFEND THE INSURED ON ALL THE OTHER CLAIMS WITHIN THE COMPLAINT, EVEN IF THEY BEAR NO RELATION TO THE INSURANCE-POLICY COVERAGE. ID., CITING PREFERRED MUT. INS. CO. V. THOMPSON (1986), 23 OHIO ST.3D 78, 80, 23 OBR 208, 491 N.E.2D 688. IN THE PRESENT MATTER, NATIONWIDE STIPULATES IN ITS REPLY BRIEF THAT THERE IS A GENUINE ISSUE OF MATERIAL FACT ABOUT WHETHER OR NOT THE CLAIMS OF MALICIOUS PROSECUTION AND DEFAMATION ARE ENTITLED TO COVERAGE UNDER THE POLICY. NATIONWIDE, IN WITHDRAWING ITS MOTION FOR SUMMARY JUDGMENT AS TO THOSE CLAIMS, STATED THAT "NATIONWIDE RECOGNIZES THAT IT WILL HAVE A DUTY TO CONTINUE DEFENDING KLOCKER AND ALL METAL ON ALL CLAIMS UNTIL THAT TIME." SUBSEQUENTLY, ALL OF THE CLAIMS ARE NOT CLEARLY AND INDISPUTABLY OUTSIDE OF THE CONTRACTED POLICY, AS NATIONWIDE HAS AGREED TO DEFEND ON THESE CLAIMS. RATHER, THIS ADMISSION SHOWS THAT THERE IS AN ALLEGATION IN THE COMPLAINT THAT COULD ARGUABLY BE COVERED BY THE POLICY. AS NATIONWIDE'S DUTY TO DEFEND APPLIES TO THESE CLAIMS, IT MUST ALSO THEN DEFEND ALL OTHER CLAIMS IN THE ACTION. REGARDING NATIONWIDE'S DUTY TO INDEMNIFY, THIS PART OF NATIONWIDE'S MOTION IS RENDERED MOOT, AS THIS CASE HAS BEEN DISMISSED IN ITS ENTIRETY ON SUMMARY JUDGMENT IN DEFENDANTS' FAVOR. NOTICE ISSUED

06/02/2014 N/A JE

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, FILED 3/3/2014, IS GRANTED. THE COURT FINDS THAT AS TO PLAINTIFFS' CLAIMS AGAINST DEFENDANTS, THERE IS NO GENUINE ISSUE AS TO ANY MATERIAL FACT, REASONABLE MINDS COULD ONLY FIND IN FAVOR OF SAID DEFENDANTS, AND SAID DEFENDANTS ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW. THEREFORE, PLAINTIFFS' CLAIMS AGAINST DEFENDANTS ARE DISMISSED WITH PREJUDICE. AS TO COUNT ONE OF PLAINTIFFS' COMPLAINT, THE NOERR-PENNINGTON DOCTRINE IMMUNIZES DEFENDANTS FROM THEIR RIGHT TO SUE IN THE UNDERLYING TRADEMARK LITIGATION BECAUSE PLAINTIFFS FAIL TO SHOW THAT THE FEDERAL LAWSUIT WAS OBJECTIVELY BASELESS. AM. CHEM. SOC'Y V. LEADSCOPE INC., 133 OHIO ST.3D 366, 2012-OHIO-4193, 978 N.E.2D 832. "A METAL SOURCE" AND "ALL METAL SALES" ARE SIMILAR MARKS IN THE SAME LINE OF BUSINESS, AND A TRADEMARK SUIT BASED ON THOSE MARKS CANNOT BE CONSIDERED BASELESS. FURTHER, IN THE UNDERLYING FEDERAL LITIGATION, PLAINTIFFS FILED COUNTERCLAIMS AGAINST DEFENDANT FOR SUING WITH "AN IMPROPER INTENT OF DESTROYING [PLAINTIFFS'] BUSINESS." THE RECORD INDICATES THAT THE COURT DISMISSED THOSE CLAIMS WITH PREJUDICE BECAUSE THERE WAS NEVER A CLAIM THAT THE SUIT WAS BROUGHT WITHOUT PROBABLE CAUSE. THE FACT THAT PLAINTIFFS DID NOT ALLEGE A LACK OF PROBABLE CAUSE FOR THE SUIT LENDS ITSELF TO THE CONCLUSION THAT THERE WAS PROBABLE CAUSE FOR THE SUIT. EVEN IF THIS DOCTRINE DID NOT IMMUNIZE THE DEFENDANTS, THIS CLAIM ALSO FAILS FOR THE INDEPENDENT REASON THAT PLAINTIFFS CANNOT SUSTAIN A CLAIM FOR MALICIOUS CIVIL PROSECUTION. IN ORDER TO STATE A CAUSE OF ACTION FOR MALICIOUS PROSECUTION IN OHIO, FOUR ESSENTIAL ELEMENTS MUST BE ALLEGED BY THE PLAINTIFF: (1) MALICIOUS INSTITUTION OF PRIOR PROCEEDINGS AGAINST THE PLAINTIFF BY DEFENDANT, (2) LACK OF PROBABLE CAUSE FOR THE FILING OF THE PRIOR LAWSUIT, (3) TERMINATION OF THE PRIOR PROCEEDINGS IN



PLAINTIFF'S FAVOR, AND (4) SEIZURE OF PLAINTIFF'S PERSON OR PROPERTY DURING THE COURSE OF THE PRIOR PROCEEDINGS. ROBB V. CHAGRIN LAGOONS YACHT CLUB, INC. 75 OHIO ST.3D 264, 1996- OHIO-189. A CAUSE OF ACTION FOR MALICIOUS CIVIL PROSECUTION WILL LIE ONLY IN CASES WHERE THERE IS A PREJUDGMENT SEIZURE OF PROPERTY, I.E., WHERE THERE ESSENTIALLY HAS BEEN A JUDGMENT AGAINST, AND A CONCOMITANT INJURY SUFFERED BY, A DEFENDANT BEFORE HE HAS HAD A CHANCE TO DEFEND HIMSELF. ID. IN THE PRESENT CASE, PLAINTIFFS DO NOT ESTABLISH A PREJUDGMENT SEIZURE OF PROPERTY. WHILE PLAINTIFFS ALLEGE THAT DEFENDANTS RECEIVED PROPRIETARY INFORMATION DURING THE UNDERLYING FEDERAL CASE, DEFENDANTS RECEIVED THE ALLEGEDLY PROPRIETARY INFORMATION DURING THE COURSE OF DISCOVERY. THIS RECEIPT OF INFORMATION CLEARLY DOES NOT CONSTITUTE A PREJUDGMENT SEIZURE OF PROPERTY BEFORE THE PLAINTIFFS HAD AN OPPORTUNITY TO DEFEND THEMSELVES. AS TO COUNT TWO OF PLAINTIFFS' COMPLAINT, PLAINTIFFS DO NOT DEMONSTRATE EVIDENCE WHICH COULD SATISFY THE REQUIREMENTS OF R.C. 2323.52. PLAINTIFFS CITE THE UNDERLYING FEDERAL LITIGATION, AS WELL AS ONE STATE CASE, CV-12-793534, AS THE BASIS FOR ITS VEXATIOUS LITIGATION CLAIM. R.C. 2323.52 SPECIFICALLY GOVERNS FILINGS IN THE COURT OF CLAIMS, THE COURT OF COMMON PLEAS, MUNICIPAL COURT, OR COUNTY COURT. A COURT OF COMMON PLEAS HAS NO AUTHORITY UNDER R.C. 2323.52, OR PURSUANT TO ITS OWN INHERENT POWERS TO PREVENT ABUSE OF THE JUDICIAL PROCESS, TO RESTRICT THE ACTIVITIES OF A VEXATIOUS LITIGATOR IN COURTS OTHER THAN THESE SPECIFICALLY ENUMERATED OHIO TRIAL COURTS. MAYER V. BRISTOW, 91 OHIO ST. 3D 3, 740 N.E.2D 656 (2000). FEDERAL COURT IS NOT A SPECIFICALLY ENUMERATED COURT UNDER THE STATUTE AND CANNOT STAND AS A BASIS FOR A VEXATIOUS LITIGATION CLAIM, EVEN IF THE FEDERAL FILING WAS A VEXATIOUS FILING. PLAINTIFFS ALLEGE ONE OTHER STATE CLAIM THAT WAS EVENTUALLY REMOVED, BUT DO NOT PROVIDE EVIDENCE THAT THE FILING WAS VEXATIOUS. ONE STATE LAW CLAIM WITHOUT EVIDENCE SHOWING ITS VEXATIOUS NATURE, EVEN IF TRUE, CANNOT ESTABLISH THAT DEFENDANTS "HABITUALLY, PERSISTENTLY, AND WITHOUT REASONABLE GROUNDS ENGAGED IN VEXATIOUS CONDUCT" AS REQUIRED UNDER THE STATUTE. AS TO COUNT THREE OF PLAINTIFFS' COMPLAINT, A CLAIM FOR UNJUST ENRICHMENT LIES WHENEVER A BENEFIT IS CONFERRED BY PLAINTIFF UPON A DEFENDANT WITH KNOWLEDGE BY THE DEFENDANT OF THE BENEFIT AND RETENTION OF THE BENEFIT BY THE DEFENDANT UNDER CIRCUMSTANCES WHERE IT WOULD BE UNJUST TO DO SO WITHOUT PAYMENT. HAMBLETON V. R.G. BARRY CORP. (1984), 12 OHIO ST. 3D 179, 183, 465 N.E.2D 1298. WHERE A PARTY MISAPPROPRIATES ANOTHER'S PROPRIETARY INFORMATION AND USES IT TO ITS OWN BENEFIT, AN AGREEMENT TO PAY MAY BE IMPLIED AND THE AGGRIEVED PARTY CAN RECOVER. LEGROS V. TARR (1989), 44 OHIO ST. 3D 1, 7, 540 N.E.2D 257. HERE, PLAINTIFFS FAIL TO SHOW A GENUINE ISSUE OF MATERIAL FACT THAT DEFENDANTS RETAINED ANY BENEFIT CONFERRED BY PLAINTIFFS. THE BASIS FOR PLAINTIFFS' CLAIM FOR UNJUST ENRICHMENT IS THAT DEFENDANT KLOCKER VIEWED INVOICES FROM PLAINTIFFS' BUSINESS THAT WERE PROVIDED DURING THE COURSE OF DISCOVERY IN THE UNDERLYING TRADEMARK DISPUTE. PLAINTIFFS OFFER NO EVIDENCE SHOWING THAT THIS WAS A BENEFIT CONFERRED ONTO DEFENDANTS. DEFENDANT STATED IN HIS DEPOSITION THAT HE DID NOT KEEP ANY OF THESE RECORDS, BUT ONLY VIEWED THEM FOR FIVE MINUTES. THE ONLY INFORMATION HE

RECEIVED FROM THESE DOCUMENTS WAS THAT HE NOTICED THREE CUSTOMERS OF HIS IN THE INVOICES. HOWEVER, PLAINTIFFS PROVIDE NO EVIDENCE THAT DEFENDANTS USED THIS INFORMATION TO THEIR OWN BENEFIT OR MISAPPROPRIATED THE INFORMATION. PLAINTIFFS REST ON A CONCLUSORY ALLEGATION CONNECTING THEIR LOSS OF BUSINESS TO DEFENDANTS' KNOWLEDGE, BUT OFFER NO EVIDENCE LEGITIMIZING THIS ASSERTION IN ORDER THAT A JURY COULD CONSIDER SUCH A CAUSAL RELATION. AS TO COUNT 4 OF PLAINTIFFS' COMPLAINT, A PLAINTIFF MUST PROVE (1) THAT THE DEFENDANT INTENDED TO CAUSE THE PLAINTIFF SERIOUS EMOTIONAL DISTRESS, (2) THAT THE DEFENDANT'S CONDUCT WAS EXTREME AND OUTRAGEOUS, AND (3) THAT THE DEFENDANT'S CONDUCT WAS THE PROXIMATE CAUSE OF PLAINTIFF'S SERIOUS EMOTIONAL DISTRESS. PHUNG V. WASTE MGT. INC., 71 OHIO ST.3D 408, 410, 1994 OHIO 389, 644 N.E.2D 286 (1994). TO RECOVER FOR INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS IN OHIO, IT IS NOT ENOUGH THAT THE DEFENDANT HAS ACTED WITH AN INTENT WHICH IS TORTIOUS OR EVEN CRIMINAL, OR THAT HE HAS INTENDED TO INFIL EMOTIONAL DISTRESS, OR EVEN THAT HIS CONDUCT HAS BEEN CHARACTERIZED BY MALICE, OR A DEGREE OF AGGRAVATION THAT WOULD ENTITLE THE PLAINTIFF TO PUNITIVE DAMAGES FOR ANOTHER TORT. YEAGER V. LOC. UNION 20 (1983), 6 OHIO ST.3D 369, 374, 6 OHIO B. 421, 453 N.E.2D 666-375. HERE, PLAINTIFFS ARGUE IN THEIR BRIEF THAT THREE ACTIONS BY THE DEFENDANTS SATISFY THE REQUIREMENTS OF EXTREME AND OUTRAGEOUS CONDUCT. NAMELY, DEFENDANTS (1) FILED A BASELESS LAWSUIT IN FEDERAL COURT, (2) MISAPPROPRIATED PROPRIETARY INFORMATION, AND (3) PURCHASED DOMAIN NAMES SIMILAR TO PLAINTIFFS' DOMAIN NAME IN ORDER TO CONFUSE CUSTOMERS. AS TO (1), A PLAINTIFF MAY NOT SUSTAIN A CLAIM FOR INTENTIONAL EMOTIONAL DISTRESS WHERE THE DEFENDANT DOES NO MORE THAN INSIST UPON ITS LEGAL RIGHTS IN A PERMISSIBLE WAY, EVEN IF SUCH INSISTENCE CAUSES SOME TYPE OF "EMOTIONAL DISTRESS." ADITYANJEE V. CASE W. RESERVE UNIV. 156 OHIO APP 3D 432, 2004-OHIO-1109 (8TH DIST.). FOR THE SAME REASONS AS NOTED IN THE COURT'S APPLICATION OF THE NOERR-PENNINGTON DOCTRINE, THE UNDERLYING LITIGATION WAS NOT A BASELESS LAWSUIT AND, AS A RESULT, THIS SUIT CANNOT BE GROUNDS FOR INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS. AS TO (2), FOR THE SAME REASONS AS INDICATED IN THIS COURT'S CONSIDERATION OF THE UNJUST ENRICHMENT CLAIM, PLAINTIFFS FAIL TO SHOW A GENUINE ISSUE OF MATERIAL FACT THAT THIS INFORMATION WAS MISAPPROPRIATED, LET ALONE ANY EVIDENCE THAT THE MISAPPROPRIATION WAS A CAUSE OF EMOTIONAL DISTRESS OR WAS EXTREME AND OUTRAGEOUS. AS TO (3), THE REQUIREMENT OF EXTREME AND OUTRAGEOUS CONDUCT NECESSARY TO THE TORT OF INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS IS NOT ESTABLISHED SIMPLY BY ORDINARY TORTIOUS OR EVEN CRIMINAL ACTIVITY. BRENO V. CITY OF MENTOR, 8TH DIST. CUYAHOGA COUNTY NO. 81861, 2003-OHIO-4051. EVEN ASSUMING THAT DEFENDANTS PURCHASED THE DOMAIN NAMES IN ORDER TO HARM PLAINTIFFS, AND THAT THIS ACTION IS TORTIOUS OR CRIMINAL IN NATURE, SUCH AN ACTIVITY DOES NOT ARISE TO THE LEVEL OF EXTREME AND OUTRAGEOUS FOR THE PURPOSES OF A CLAIM FOR INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS. AS TO COUNT FIVE OF PLAINTIFFS' COMPLAINT, THE ELEMENTS OF DEFAMATION ARE (1) THE DEFENDANT MADE A FALSE STATEMENT; (2) THAT WAS DEFAMATORY IN NATURE; (3) AND PUBLISHED TO A THIRD PARTY; (4) THE PUBLICATION OF THAT STATEMENT CAUSED INJURY TO THE PLAINTIFF; AND (5) THE DEFENDANT ACTED WITH THE

REQUISITE DEGREE OF FAULT. TEMETHY V. HUNTINGTON BANCSHARES, INC., 8TH DIST. CUYAHOGA COUNTY NO. 83291, 2004 OHIO 1253. PLAINTIFFS DID NOT EXPLAIN WHAT, IF ANY, OF THE DEFAMATORY REMARKS WERE. DEFENDANTS' MOTION INDICATED THAT THESE COMMENTS WERE: (1) A FALSE POLICE REPORT, (2) STATEMENTS MADE IN A TRADE PUBLICATION, AND (3) STATEMENTS MADE IN AN UNDERLYING PROSECUTION FOR A FEDERAL OFFENSE IN WHICH ESPARZA WAS AN UNINDICTED COCONSPIRATOR.

DEFENDANTS' STATUTE OF LIMITATIONS ARGUMENT REGARDING THE POLICE REPORT AND TRADE PUBLICATION IS UNDISPUTED. THE CLAIM PERIOD FOR DEFAMATION IS ONE YEAR FROM THE OCCURRENCE AS PROVIDED BY R.C. 2305.11(A). T.S. V. PLAIN DEALER, 194 OHIO APP. 3D 30, 2011-OHIO-2935, 954 N.E.2D 213 (8TH DIST.). PLAINTIFF CONCEDED IN HER DEPOSITION THAT THE TRADE ARTICLE WAS PUBLISHED ON 10/15/2010, WHICH IS PAST THE STATUTE OF LIMITATIONS DEADLINE. THE SAME APPLIES TO THE FALSE POLICE REPORT, AS EVIDENCED IN KLOCKER SR.'S DEPOSITION WHICH INDICATES THAT DEFENDANT KLOCKER MADE THIS REPORT IN 2009 OR 2010. PLAINTIFFS' ARGUMENT AGAINST AN APPLICATION OF THE STATUTE OF LIMITATIONS IS THAT DEFENDANTS' EMPLOYEE MADE A DEFAMATORY STATEMENT AS LATE AS 2013, WHICH SHOWS THAT DEFAMATORY STATEMENTS WERE MADE WITHIN A YEAR OF THE FILING. HOWEVER, THIS STATEMENT DOES NOT SHOW THAT THESE OTHER STATEMENTS WERE MADE IN 2013. IT IS A HEARSAY COMMENT MADE FROM DEFENDANTS' EMPLOYEE WHO MAY OR MAY NOT HAVE ACTED IN HIS CAPACITY AS DEFENDANTS' EMPLOYEE AT THAT TIME AND PLAINTIFFS FAIL TO SHOW WHY THIS STATEMENT SHOULD BE ATTRIBUTED TO DEFENDANT KLOCKER ON A DEFAMATION CLAIM.

FURTHER, THERE IS NO TESTIMONY FROM THE PERSON WHO HEARD THE COMMENT TO CLARIFY ANY OF THESE AMBIGUITIES. FINALLY, IN REGARDS TO THE ALLEGATION THAT DEFENDANT KLOCKER MADE A FALSE STATEMENT ABOUT MS. ESPARZA'S CRIMINAL BACKGROUND TO OTHERS, PLAINTIFFS NOTE THAT THE EVIDENCE FOR THIS STATEMENT RESTS IN KLOCKER SR.'S DEPOSITION. HOWEVER, THIS EVIDENCE ONLY SHOWS THAT THE PLAINTIFF MAY HAVE BEEN INNOCENT OF THE UNDERLYING CRIMINAL ACT. PLAINTIFFS DO NOT POINT TO ANY RECORD OF WHAT WAS SAID, HOW IT WAS SAID, TO WHOM IT WAS SAID, ETC. PLAINTIFFS DO NOT SHOW WHAT STATEMENT WAS MADE, IN WHAT CONTEXT THE STATEMENT WAS MADE, WHEN THE STATEMENT WAS MADE FOR THE PURPOSES OF A STATUTE OF LIMITATIONS ARGUMENT, OR ANYTHING ELSE ABOUT IT. THEY REST ON CONCLUSORY ALLEGATIONS AND ARGUE THAT SHE WAS INNOCENT OF THE ACT, WHICH, EVEN IF TRUE, WOULD ONLY SATISFY ONE ELEMENT OF A DEFAMATION CLAIM. AS TO COUNTS SIX AND SEVEN OF PLAINTIFFS' COMPLAINT, PLAINTIFFS DO NOT SHOW ANY EVIDENCE OF ANY ACTUAL OR EVEN PROSPECTIVE BUSINESS RELATIONSHIPS OR CONTRACTS WITH WHICH DEFENDANTS INTERFERED. PLAINTIFFS OFFER TESTIMONY THAT A GENTLEMAN CALLED THEIR BUSINESS WITH WEBSITE CONFUSION THINKING THAT IT WAS DOWN AND ALSO THAT THEY RECEIVED MANY CALLS WITH NEGATIVE REMARKS RELATED TO THE UNDERLYING LITIGATION. HOWEVER, THE RECORD IS DEVOID OF ANY EVIDENCE THAT DEFENDANTS CONTACTED ANY OF PLAINTIFFS' CUSTOMERS OR PROSPECTIVE CUSTOMERS, OR THAT ANY CUSTOMER OR PROSPECTIVE CUSTOMER DID NOT RETAIN PLAINTIFFS' SERVICES AS A RESULT OF DEFENDANTS' ACTIONS. PLAINTIFFS REST ON CONCLUSORY ALLEGATIONS THAT THEIR LOSS OF REVENUE, OF WHICH THERE IS NO CORROBORATING EVIDENCE, MUST HAVE NECESSARILY RESULTED FROM DEFENDANTS' TORTIOUS

INTERFERENCE WITH THEIR CUSTOMERS AND CONTRACTS. ONCE AGAIN, THESE CONCLUSIONS ARE NOT SUPPORTED BY EVIDENCE WHICH WOULD PRESENT A GENUINE ISSUE OF MATERIAL FACT FOR THE JURY TO CONSIDER. BASED ON THE FOREGOING, PLAINTIFFS' COMPLAINT IS DISMISSED IN ITS ENTIRETY. NOTICE ISSUED			
06/02/2014	N/A	SC	HEARING SCHEDULED FOR 06/03/2014 AT 08:00 AM IS CANCELLED.
05/30/2014	P	MO	MOTION FILED FOR PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) LEI JIANG 0084847 PLAINTIFFS' MOTION FOR PARTIAL DISMISSAL WITHOUT PREJUDICE OF THE FOLLOWING CAUSES OF ACTION: MALICIOUS PROSECUTION, VEXATIOUS LITIGATOR, UNJUST ENRICHMENT, AND DEFAMATION 06/03/2014 - MOOT
05/28/2014	N/A	SC	HEARING SET FOR 06/03/2014 AT 08:00 AM.
05/23/2014	N/A	SC	HEARING SCHEDULED FOR 05/27/2014 AT 08:00 AM IS CANCELLED.
05/23/2014	N/A	JE	PLAINTIFFS MOTION TO CONTINUE THE HEARING SET FOR MAY 27, 2014 AT 8:00 A.M., FILED 5/22/2014, IS GRANTED. THE HEARING SCHEDULED FOR 5/27/2014 IS RESET TO 6/3/2014 AT 8:00 A.M. NOTICE ISSUED
05/22/2014	P	MO	PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2)'S MOTION FOR CONTINUANCE LEI JIANG 0084847. ^F^ MOTION TO CONTINUE THE HEARING SET FOR MAY 27, 2014 AT 8:00 A.M. 05/23/2014 - GRANTED
05/22/2014	N/A	SC	HEARING SET FOR 05/27/2014 AT 08:00 AM. (Notice Sent).
05/21/2014	P1	OT	NOTICE OF FEDERAL CYBERSQUATTING LAWSUIT . LEI JIANG. (0084847)
05/21/2014	N/A	JE	A HEARING ON PLAINTIFFS' MOTION TO WITHDRAW AS COUNSEL AND MOTION FOR IN CAMERA REVIEW IS SET FOR 5/27/2014 AT 8:00 A.M. COUNSEL FOR PLAINTIFFS SHALL INFORM ALL OPPOSING COUNSEL AND/OR PRO SE PARTIES, IN WRITING, OF THIS DATE AND TIME. COUNSEL FOR ALL PARTIES ARE REQUIRED TO BE PRESENT. FAILURE OF ANY KIND OF THE AFOREMENTIONED PERSONS TO APPEAR AT THIS PROPERLY SCHEDULED HEARING MAY RESULT IN SANCTIONS INCLUDING DISMISSAL OF THE CASE AND/OR JUDGMENT BEING RENDERED. NOTICE ISSUED
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF JESSICA ESPARZA TAKEN THURSDAY JANUARY 16, 2014 AT 1010:AM, LEI JIANG (0084847)
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF THOMAS PAUL KLOCKER TAKEN TUESDAY JANUARY 28, 2014 AT 1:00PM, LEI JIANG (0084847)
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF JAMIE WIRTJES TAKEN THURSDAY JANUARY 23, 2014 AT 1:50PM, LEI JIANG (0084847)
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF ROCIO KLOCKER TAKEN THURSDAY JANUARY 23, 2014 AT 4:30PM, LEI JIANG (0084847)
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF THOMAS G. KLOCKER TAKEN JANUARY 23, 2014 AT 10:30AM, LEI JIANG (0084847)
05/20/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF STEPHEN J. MCGRATH TAKEN TUESDAY JANUARY 28, 2014 AT 10:19AM, LEI JIANG (0084847)
05/20/2014	P1	OT	PLAINTIFF'S A METAL SOURCE LLC AND JESSICA ESPARZA'S NOTICE OF FILING DEPOSITION TRANSCRIPTS
05/20/2014	P	OT	PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) PLAINTIFF'S RESPONSE TO DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR IN-CAMERA REVIEW AND CLARIFICATION AND MODIFICATION OF THE PROTECTIVE ORDER. LEI JIANG 0084847
05/20/2014	P	MO	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) PLAINTIFF'S MOTION FOR A SPANISH-LANGUAGE INTERPRETER FOR THE TRIAL TESTIMONY OF PLAINTIFF'S WITNESS LEI JIANG 0084847 06/03/2014 - MOOT
05/16/2014	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ATTORNEY JOSEPH A

			FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, OPPOSITION TO PLAINTIFFS' MOTION FOR IN-CAMERA REVIEW OF AT&T RECORDS AND CLARIFICATION AND MODIFICATION OF THE PROTECTIVE ORDER	
05/07/2014	P	MO	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) MOTION FOR IN-CAMERA REVIEW OF AT&T RECORDS AND CLARIFICATION AND MODIFICATION OF THE PROTECTIVE ORDER LEI JIANG 0084847 06/03/2014 - MOOT	
04/30/2014	P	MO	PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) MOTION TO WITHDRAW REPRESENTATION AS PLAINTIFF'S COUNSEL...FILED. LEI JIANG 0084847 06/03/2014 - MOOT	
04/28/2014	N/A	JE	PLAINTIFF'S MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF MSJ, FILED 4/17/2014, IS GRANTED. NOTICE ISSUED	
04/24/2014	P3	BR	REPLY BRIEF FILED BY P3 NATIONWIDE MUTUAL INSURANCE COMPANY GREGORY E O'BRIEN 0037073 PROPOSED REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT	
04/18/2014	D	BR	BRIEF FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MATTHEW JOHN CAVANAGH 0079522 DEFENDANTS' OPPOSITION TO NATIONWIDE'S POST-DEADLINE MOTION FOR EXTENSION OF TIME TO FILE REPLY	
04/17/2014	P3	MO	MOTION FILED FOR P3 NATIONWIDE MUTUAL INSURANCE COMPANY GREGORY E O'BRIEN 0037073 LEAVE INSTANTER TO FILE REPLY IN SUPPORT OF MSJ 04/28/2014 - GRANTED	
04/08/2014	D	BR	REPLY BRIEF FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS' REPLY TO PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT	
04/02/2014	D	BR	BRIEF FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MATTHEW JOHN CAVANAGH 0079522 DEFENDANTS' OPPOSITION TO NATIONWIDE'S SUMMARY JUDGMENT MOTION	
03/28/2014	P	BR	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) BRIEF IN OPPOSITION TO DEFTS' MOTION FOR SUMMARY JUDGMENT. LEI JIANG 0084847	
03/28/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF STEPHEN J. MCGRATH, TAKEN ON TUESDAY JANUARY 28, 2014 AT 10:19 A.M...FILED.	
03/28/2014	N/A	NT	TRANSCRIPT FILED DEPOSITION OF THOMAS G. KLOCKER, TAKEN ON THURSDAY JANUARY 23, 2014 AT 10:30 A.M....FILED.	
03/17/2014	P	OT	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) PROPOSED STIPULATIONS OF FACT...FILED.. LEI JIANG 0084847	
03/10/2014	N/A	JE	DEFENDANTS' MOTION FOR PROTECTIVE ORDER, FILED 2/11/2014, IS GRANTED. NOTICE ISSUED	
03/03/2014	P3	MO	MOTION FILED FOR P3 NATIONWIDE MUTUAL INSURANCE COMPANY GREGORY E O'BRIEN 0037073 SUMMARY JUDGMENT 06/02/2014 - DENIED IN PART	
03/03/2014	D	MO	MOTION FILED FOR DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS' MOTION FOR SUMMARY JUDGMENT 06/02/2014 - GRANTED	
03/03/2014	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ATTORNEY JOSEPH A FERRANTE 0040128 DEPOSITION TRANSCRIPT OF JAMIE WIRTJES	
03/03/2014	D	OT	GENERAL PLEADING FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ATTORNEY JOSEPH A	

FERRANTE 0040128 DEPOSITION TRANSCRIPT OF THOMAS PAUL KLOCKER

03/03/2014 D OT GENERAL PLEADING FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ATTORNEY JOSEPH A FERRANTE 0040128 DEPOSITION TRANSCRIPT OF JESSICA ESPARZA

03/03/2014 D NT NOTICE FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ATTORNEY JOSEPH A FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, NOTICE OF FILING DEPOSITION TRANSCRIPTS

02/27/2014 N/A JE PLAINTIFFS' MOTION IN OPPOSITION TO DEFENDANT'S MOTION TO BIFURCATE, FILED 2/14/2014, IS MOOT AS THIS FILING IS NOT A MOTION. NOTICE ISSUED 

02/27/2014 N/A JE DEFENDANTS' MOTION TO BIFURCATE CLAIM OF PUNITIVE DAMAGES, FILED 2/7/2014, IS GRANTED. NOTICE ISSUED 

02/20/2014 D BR REPLY BRIEF FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, REPLY TO PLAINTIFFS' MOTION IN OPPOSITION TO DEFENDANTS' MOTION TO BIFURCATE

02/20/2014 D BR REPLY BRIEF FILED BY DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, REPLY TO PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER

02/18/2014 P BR PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR PROTECTIVE ORDER...FILED.. LEI JIANG 0084847

02/14/2014 P MO PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) PLAINTIFF'S MOTION IN OPPOSITION TO DEFENDANT'S MOTION TO BIFURCATE LEI JIANG 0084847 02/27/2014 - MOOT

02/11/2014 D MO MOTION FILED FOR DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, MOTION FOR PROTECTIVE ORDER 03/10/2014 - GRANTED

02/10/2014 P1 OT PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) NOTICE OF SUBPOENA.... FILED. LEI JIANG 0084847

02/07/2014 D MO MOTION FILED FOR DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) JOSEPH A FERRANTE 0040128 DEFENDANTS, THOMAS G. KLOCKER AND ALL METAL SALES, INC.'S, MOTION TO BIFURCATE CLAIM OF PUNITIVE DAMAGES 02/27/2014 - GRANTED

01/22/2014 P1 OT PLAINTIFFS NOTICE OF SUBPOENA. LEI JIANG (0084847)

01/22/2014 P1 OT PLAINTIFFS NOTICE OF SUBPOENA. LEI JIANG (0084847)

01/22/2014 P1 OT PLAINTIFFS' NOTICE OF SUBPOENA. LEI JIANG (0084847)

01/22/2014 P3 SR SUBPOENA FOR: ROCIO KLOCKER C/O LEI JIANG, ESQ SERVED JANUARY 20, 2014 UPON LEI JIANG .

01/22/2014 P3 SR SUBPOENA FOR: JAMIE WIRTJES SERVED JANUARY 20, 2014 UPON LEI JIANG .

01/22/2014 P3 SR SUBPOENA FOR: THOMAS P KLOCKER C/O LEI JIANG ESQ SERVED JANUARY 20, 2014 UPON LEI JIANG .

01/22/2014 P3 SR SUBPOENA FOR: CLAUDIA SEPULVEDA SERVED JANUARY 20, 2014 VIA RESIDENCE SERVICE .

01/14/2014 P OT

PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) NOTICE OF SUBPOENA. LEI JIANG 0084847

01/09/2014	N/A	JE	PLAINTIFFS' MOTION FOR PROPOSED PROTECTIVE ORDER, FILED 12/9/2013, IS DENIED. NOTICE ISSUED	
12/09/2013	P1	MO	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) MOTION FOR PROPOSED PROTECTIVE ORDER LEI JIANG 0084847 01/09/2014 - DENIED	
09/06/2013	D3	AN	DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ANSWER TO NATIONWIDE'S THIRD PARTY COMPLAINT. ADAM C SMITH 0087720	
08/29/2013	D	AN	DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ANSWER TO PLTFS' SECOND AMENDED COMPLAINT. WITH JURY DEMAND JOSEPH A FERRANTE 0040128	
08/23/2013	P	AN	PLAINTIFF(S) JESSICA ESPARZA(P1), A METAL SOURCE, LLC(P2) and NATIONWIDE MUTUAL INSURANCE COMPANY(P3) ANSWER TO INTERVENER'S THIRD PARTY COMPLAINT. LEI JIANG 0084847	
08/16/2013	D2	OT	D2 ALL METAL SALES, INC. STIPULATION FOR LEAVE TO PLEAD. JOSEPH A FERRANTE 0040128	
08/15/2013	N/A	SC	TRIAL SET FOR 06/23/2014 AT 08:00 AM. (Notice Sent).	
08/15/2013	N/A	JE	CMC CONDUCTED 8/15/2013. THE FOLLOWING DATES, IN ADDITION TO THE DATES SET FORTH IN THE TRIAL ORDER, APPLY: 1. ALL DISCOVERY TO BE COMPLETED BY 1/31/2014. 2. THE LATEST DATE FOR FILING DISPOSITIVE MOTIONS, IF ANY, IS 3/3/2014. RESPONSES DUE IN ACCORDANCE WITH LOCAL RULE 11(I). 3. TRIAL SCHEDULED FOR 6/23/2014 AT 8:00 A.M. 4. TRIAL ORDER ENTERED. O.S.J. NOTICE ISSUED	
08/09/2013	P3	SF	DEPOSIT AMOUNT PAID	
08/09/2013	P3	CC	INTERVENER'S THIRD PARTY COMPLAINT DEPOSIT RECEIVED \$75 GREGORY E O'BRIEN(0037073)	
08/09/2013	P2	CO	P2 A METAL SOURCE, LLC - INTERVENER'S THIRD PARTY COMPLAINT FOR DECLARATORY JUDGMENT. WITH JURY DEMAND GREGORY E O'BRIEN 0037073	
08/07/2013	N/A	JE	NON-PARTY NATIONWIDE MUTUAL INSURANCE COMPANY'S MOTION TO INTERVENE, IS UNOPPOSED AND GRANTED. NATIONWIDE MUTUAL INSURANCE COMPANY IS TO FILE ITS INTERVENING COMPLAINT BY NOT LATER THAN 8/16/2013. NOTICE ISSUED	
08/02/2013	N/A	JE	PURSUANT TO RULE 12(B)(6) OF THE OHIO RULES OF CIVIL PROCEDURE, THE COURT HAS PRESUMED THE FACTUAL ALLEGATIONS OF PLAINTIFFS' SECOND AMENDED COMPLAINT TO BE TRUE AND ALL REASONABLE INFERENCES IN FAVOR OF THE NON-MOVING PARTY. AS A RESULT, DEFENDANTS HAVE FAILED TO CARRY THEIR BURDEN TO DEMONSTRATE, BEYOND ALL DOUBT, THAT PLAINTIFFS CAN PROVE NO SET OF FACTS ENTITLING THEM TO RECOVERY. FURTHERMORE, DEFENDANTS HAVE ARGUED THAT MANY OF PLAINTIFFS' CLAIMS ARE BARRED BY THE DOCTRINE OF RES JUDICATA. HOWEVER, OHIO COURTS HAVE CONSISTENTLY HELD THE AFFIRMATIVE DEFENSE OF RES JUDICATA IS NOT PROPERLY RAISED IN A 12(B)(6) MOTION TO DISMISS AS THE DEFENSE MUST BE SUPPORTED WITH EVIDENCE OUTSIDE THE PLEADINGS. SEE ARDARY V. STEPIEN, 2004 OHIO 630, 2004 OHIO APP. LEXIS 627 (OHIO CT. APP., CUYAHOGA COUNTY FEB. 12, 2004), POWELL V. WAL-MART STORES, INC., 2010 OHIO 5233, 2010 OHIO APP. LEXIS 4404, 2010 WL 4292169 (OHIO CT. APP., CUYAHOGA COUNTY OCT. 28, 2010), COMMONS V. RAAKER, 2011 OHIO 6084, P12, 2011 OHIO APP. LEXIS 4959, 2011 WL 5870551 (OHIO CT. APP., CUYAHOGA COUNTY NOV. 23, 2011).	

THEREFORE, DEFENDANTS' MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT UNDER RULE 12(B)(6) IS HEREBY DENIED.  
NOTICE ISSUED

07/29/2013 N/A SC CASE MGMNT CONFERENCE SET FOR 08/15/2013 AT 08:00 AM. COUNSEL FOR PLAINTIFF(S) SHALL INFORM ALL OPPOSING COUNSEL AND/OR PRO SE PARTIES, IN WRITING, OF THIS DATE AND TIME. COUNSEL FOR ALL PARTIES ARE REQUIRED TO BE PRESENT IN PERSON AND TO BE FAMILIAR WITH THE UNDERLYING FACTS OF THE CASE. PARTIES NOT REPRESENTED BY COUNSEL SHALL LIKEWISE BE PRESENT IN PERSON. FAILURE OF ANY KIND OF THE AFOREMENTIONED PERSONS TO APPEAR AT THIS PROPERLY SCHEDULED CASE MANAGEMENT CONFERENCE MAY RESULT IN SANCTIONS INCLUDING DISMISSAL OF THE CASE AND/OR JUDGMENT BEING RENDERED. (NOTICE SENT)

07/09/2013 P2 OT PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) SUPPLEMENTAL CERTIFICATE OF SERVICE FOR OPPOSITION TO DEFTS' MTN TO DISMISS PLTFS' SECOND AMENDED COMPLAINT. LEI JIANG 0084847

07/09/2013 N/A JE PLAINTIFF'S MOTION FOR A THIRTY DAY EXTENSION TO RESPOND TO ALL OUTSTANDING MOTIONS IS HEREBY GRANTED. PLAINTIFFS ARE TO RESPOND TO ALL OUTSTANDING MOTIONS BY NOT LATER THAN 8/5/2013. NO FURTHER EXTENSIONS WILL BE PERMITTED. NOTICE ISSUED

07/09/2013 N/A JE PLAINTIFFS' MOTION TO WITHDRAW AS ATTORNEY OF RECORD, FILED 06/25/2013, IS UNOPPOSED AND GRANTED. THE CLERK IS HEREBY ORDERED TO REMOVE ATTORNEY MESLAT AS ATTORNEY OF RECORD FOR PLAINTIFFS. NOTICE ISSUED

07/08/2013 P2 OT PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) OPPOSITION TO DEFTS' MTN TO DISMISS PLTFS' SECOND AMENDED COMPLAINT. LEI JIANG 0084847

07/01/2013 P OT PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) NOTICE OF APPEARANCE AND MOTION FOR THIRTY DAY EXTENSION FOR FILING RESPONSE TO DEFTS' MOTION TO DISMISS. LEI JIANG 0084847

06/26/2013 N/A SC CASE MGMNT CONFERENCE SCHEDULED FOR 07/02/2013 AT 08:00 AM IS CANCELLED.

06/25/2013 P MO PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) MOTION TO WITHDRAW AS ATTORNEY OF RECORD (W) LANENE M MESLAT 0074450 07/09/2013 - UNOPPOSED AND GRANTED

06/24/2013 D MO DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MTN TO DISMISS SECOND AMENDED COMPLAINT UNDER RULE 12(B)(6) JOSEPH A FERRANTE 0040128 08/02/2013 - DENIED

06/21/2013 P1 MO PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) MTN TO CONTINUE CMC LANENE M MESLAT 0074450 07/01/2013 - GRANTED

06/21/2013 P2 MO PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) MTN FOR LEAVE TO RESPOND TO MTN TO INTERVENE LANENE M MESLAT 0074450 07/08/2013 - UNOPPOSED AND GRANTED

06/18/2013 N/A JE DEFENDANTS' MOTION FOR LEAVE TO RESPOND TO PLAINTIFFS' SECOND AMENDED COMPLAINT, FILED 05/30/2013, IS UNOPPOSED AND GRANTED. DEFENDANTS' ARE TO RESPOND TO PLAINTIFFS' SECOND AMENDED COMPLAINT BY NOT LATER THAN 6/24/2013. NOTICE ISSUED

06/17/2013 N/A SC CASE MGMNT CONFERENCE SET FOR 07/02/2013 AT 08:00 AM. COUNSEL FOR PLAINTIFF(S) SHALL INFORM ALL OPPOSING COUNSEL AND/OR PRO SE PARTIES, IN WRITING, OF THIS DATE AND TIME. COUNSEL FOR ALL PARTIES ARE REQUIRED TO BE PRESENT IN PERSON AND TO BE FAMILIAR WITH THE UNDERLYING FACTS OF THE

CASE. PARTIES NOT REPRESENTED BY COUNSEL SHALL LIKEWISE BE PRESENT IN PERSON. FAILURE OF ANY KIND OF THE AFOREMENTIONED PERSONS TO APPEAR AT THIS PROPERLY SCHEDULED CASE MANAGEMENT CONFERENCE MAY RESULT IN SANCTIONS INCLUDING DISMISSAL OF THE CASE AND/OR JUDGMENT BEING RENDERED. (NOTICE SENT)

06/12/2013	N/A	JE	CAPTIONED CASE BEING REMANDED TO THE COURT OF COMMON PLEAS BY ORDER OF THE UNITED STATES DISTRICT COURT; THIS MATTER IS HEREBY RETURNED TO THE DOCKET OF JUDGE KATHLEEN ANN SUTULA (304) FOR FURTHER PROCEEDINGS ACCORDING TO LAW. ADMINISTRATIVE JUDGE NANCY A. FUERST NOTICE ISSUED
06/11/2013	N/A	MO	NON PARTY NATIONWIDE MUTUAL INSURANCE COMPANY MOTION TO INTERVENE GREGORY E O'BRIEN (0037073) 08/07/2013 - UNOPPOSED AND GRANTED
05/31/2013	P1	OT	CASE AND FILE REMANDED ACK TO COURT OF COMMON PLEAS FROM U.S. DISTRICT COURT ... CASE NO: 1:13CV835
05/30/2013	D	MO	DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MTN FOR LEAVE TO RESPOND TO PLTFS' SECOND AMENDED COMPLAINT BY JUNE 24, 2013, AND TO CONVENE CMC FOLLOWING REMAND MATTHEW JOHN CAVANAGH 0079522 06/18/2013 - UNOPPOSED AND GRANTED
05/01/2013	P1	OT	05-01-2013; CASE REMOVED TO US DISTRICT COURT, CASE NO. 1:13-CV-00835, PER JE DATED 04-22-2013 . . . . .
04/22/2013	N/A	JE	THE COURT NOTES THAT ON 4/15/2013, DEFENDANTS FILED A NOTICE OF REMOVAL. THEREFORE, THE CLERK IS TO TRANSFER THE ENTIRE FILE TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION. FINAL. NOTICE ISSUED
04/16/2013	N/A	SC	TRIAL SET FOR 12/02/2013 AT 08:00 AM.
04/15/2013	P1	SF	DEPOSIT AMOUNT PAID
04/15/2013	P1	CC	SECOND AMENDED COMPLAINT DEPOSIT RECEIVED \$75 LANENE M MESLAT(0074450)
04/15/2013	D1	EV	NOTICE OF REMOVAL FILED BY DEFTS. ORIGINAL SENT TO JUDGE KATHLEEN SUTULA 041513. MATTHEW J. CAVANAGH (216) 348-5400.. MATTHEW JOHN CAVANAGH (0079522)
04/15/2013	P2	AC	P2 A METAL SOURCE, LLC SECOND AMENDED COMPLAINT. WITH JURY DEMAND LANENE M MESLAT 0074450
04/03/2013	N/A	JE	CMC CONDUCTED 4/2/2013. THE FOLLOWING DATES, IN ADDITION TO THE DATES SET FORTH IN THE TRIAL ORDER, APPLY: 1. PLAINTIFFS' ORAL MOTION TO FILE AN AMENDED SECOND COMPLAINT IS GRANTED. PLAINTIFF TO FILE SAID SECOND AMENDED COMPLAINT BY NOT LATER THAN 4/15/2013. 2. PLAINTIFFS ARE TO RESPOND TO DEFENDANTS' MOTION TO DISMISS BY NOT LATER THAN 4/26/2013. 3. ALL DISCOVERY TO BE COMPLETED BY 9/27/2013. 4. PLAINTIFF TO SUBMIT ALL EXPERT REPORTS BY NOT LATER THAN 6/21/2013. 5. DEFENDANT TO SUBMIT ALL EXPERT REPORTS BY NOT LATER THAN 7/26/2013. 6. THE LATEST DATE FOR FILING DISPOSITIVE MOTIONS, IF ANY, IS 10/11/2013. RESPONSES DUE IN ACCORDANCE WITH LOCAL RULE 11(I). 7. TRIAL SCHEDULED FOR 12/2/2013 AT 8:00 A.M. 8. TRIAL ORDER ENTERED. O.S.J. NOTICE ISSUED
03/28/2013	D	OT	DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) ENTRY OF APPEARANCE OF COUNSEL. MATTHEW JOHN CAVANAGH 0079522
03/28/2013	D	MO	DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MOTION TO DISMISS UNDER RULE 12(B) (6) JOSEPH A FERRANTE 0040128 04/18/2013 - UNKNOWN
03/22/2013	N/A	SC	CASE MGMNT CONFERENCE SET FOR 04/02/2013 AT 08:00 AM. COUNSEL FOR PLAINTIFF(S) SHALL INFORM ALL OPPOSING COUNSEL

AND/OR PRO SE PARTIES, IN WRITING, OF THIS DATE AND TIME. COUNSEL FOR ALL PARTIES ARE REQUIRED TO BE PRESENT IN PERSON AND TO BE FAMILIAR WITH THE UNDERLYING FACTS OF THE CASE. PARTIES NOT REPRESENTED BY COUNSEL SHALL LIKEWISE BE PRESENT IN PERSON. FAILURE OF ANY KIND OF THE AFOREMENTIONED PERSONS TO APPEAR AT THIS PROPERLY SCHEDULED CASE MANAGEMENT CONFERENCE MAY RESULT IN SANCTIONS INCLUDING DISMISSAL OF THE CASE AND/OR JUDGMENT BEING RENDERED. (NOTICE SENT)

03/04/2013 D OT DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) STIPULATION FOR LEAVE TO PLEAD UNTIL MARCH 29, 2013.  
JOSEPH A FERRANTE 0040128

02/28/2013 N/A JE DEFENDANTS' MOTION TO STRIKE COMPLAINT OR, ALTERNATIVELY, TO STAY CASE UNTIL PLAINTIFF RETAINS COUNSEL, FILED 02/22/2013, IS MOOT AS PLAINTIFF HAS RETAINED COUNSEL. NOTICE ISSUED

02/26/2013 P BR PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) BRIEF IN OPPOSITION TO DEFTS' MOTION TO STRIKE. LANENE M MESLAT 0074450

02/25/2013 P2 AC PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) AMENDED COMPLAINT. WITH JURY DEMAND LANENE M MESLAT 0074450

02/25/2013 P1 SF DEPOSIT AMOUNT PAID

02/25/2013 P1 CC AMENDED COMPLAINT DEPOSIT RECEIVED \$75 LANENE M. MESLAT CO. LPA(0074450)

02/22/2013 D MO DEFENDANT(S) THOMAS GERALD KLOCKER(D1) and ALL METAL SALES, INC.(D2) MTN TO STRIKE COMPLAINT OR, ALTERNATIVELY, TO STAY CASE UNTIL PLTF A METAL SOURCE, LLC RETAINS COUNSEL JOSEPH A FERRANTE 0040128 02/28/2013 - MOOT

02/21/2013 P OT PLAINTIFF(S) JESSICA ESPARZA(P1) and A METAL SOURCE, LLC(P2) NOTICE OF APPEARANCE AS ATTNY OF RECORD. LANENE M MESLAT 0074450

01/29/2013 D1 SR CERTIFIED MAIL RECEIPT NO. 20753803 RETURNED BY U.S. MAIL DEPARTMENT 01/29/2013 KLOCKER/THOMAS/GERALD MAIL RECEIVED AT ADDRESS 01/25/2013 SIGNED BY OTHER.

01/25/2013 D2 SR CERTIFIED MAIL RECEIPT NO. 20753804 RETURNED BY U.S. MAIL DEPARTMENT 01/25/2013 ALL METAL SALES, INC. MAIL RECEIVED AT ADDRESS 01/25/2013 SIGNED BY OTHER.

01/23/2013 D2 SR SUMS COMPLAINT(20753804) SENT BY CERTIFIED MAIL. TO: ALL METAL SALES, INC. C/O THOMAS GERALD KLOCKER 29260 CLEMENS ROAD SUITE #3 WESTLAKE, OH 44145-0000 

01/23/2013 D1 SR SUMS COMPLAINT(20753803) SENT BY CERTIFIED MAIL. TO: THOMAS GERALD KLOCKER 908 BEACH ROAD LAKEWOOD, OH 44107-0000 

01/16/2013 D2 CS WRIT FEE

01/16/2013 D1 CS WRIT FEE

01/08/2013 P1 SR COMPLAINT FILED. SERVICE REQUEST - SUMMONS BY CERTIFIED MAIL TO THE DEFENDANT(S).

01/07/2013 N/A SF JUDGE KATHLEEN ANN SUTULA ASSIGNED (RANDOM)

01/07/2013 P1 SF LEGAL RESEARCH

01/07/2013 P1 SF LEGAL NEWS

01/07/2013 P1 SF LEGAL AID

01/07/2013 P1 SF COURT SPECIAL PROJECTS FUND

01/07/2013 P1 SF COMPUTER FEE

01/07/2013 P1 SF CLERK'S FEE

01/07/2013 P1 SF DEPOSIT AMOUNT PAID JESSICA ESPARZA

01/07/2013 P1 SF DEPOSIT AMOUNT PAID JESSICA ESPARZ

01/07/2013 N/A SF CASE FILED

**Costs**

<b>Account</b>	<b>Amount</b>
CLERK'S FEES	\$391.26
COMPUTER FEES	\$10.00
COURT SPECIAL PROJECTS FUND	\$50.00
LEGAL AID	\$25.74
LEGAL NEWS	\$10.00
LEGAL RESEARCH - CIVIL	\$3.00
TOTAL COST	\$490.00

Only the official court records available from the Cuyahoga County Clerk of Courts, available in person, should be relied upon as accurate and current.

For questions/comments please [click here](#).

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